Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at http://about.jstor.org/participate-jstor/individuals/early-journal-content.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

They would nullify each other as rules of law, and leave the question one purely of fact, to be decided upon the balance of probability. *Turner* v. *Williams*, 202 Mass. 500, 89 N. E. 110. See THAYER, PRELIMINARY TREATISE ON EVIDENCE, 343–351. A more satisfactory method is simply to assert a strong public policy in favor of the marriage, and require an equally strong balance of probability to overthrow it.

QUASI-CONTRACTS — MONEY PAID UNDER DURESS OR COMPULSION OF LAW — THREAT TO PROSECUTE A RELATIVE AS DURESS. — In an action on certain promissory notes, the defendant counterclaimed for the amount already paid on the notes, alleging that they had been extorted from him by the plaintiff's threats to prosecute the defendant's brother-in-law for a felony. There was no allegation as to whether a felony had or had not been committed, nor had any prosecution been begun. To this counter claim the plaintiff demurred. *Held*, that the demurrer was erroneously overruled. *Union Exchange National Bank* v. *Joseph*, 185 N. Y. Supp. 403.

In general, money paid because of threats and for no other reason, can be recovered. *Robertson* v. *Frank Brothers*, 132 U. S. 17; *Horner* v. *State*, 42 App. Div. 430, 59 N. Y. Supp. 96. And many courts permit such recovery even though the transaction was in the nature of compounding a felony. *Wilbur* v. *Blanchard*, 22 Idaho, 517, 126 Pac. 1069; *Nelson* v. *Leszczynski-Clark Co.*, 177 Mich. 517, 143 N. W. 606. See *Schoener* v. *Lessauer*, 107 N. Y. 111, 13 N. E. 741. But there is considerable authority to the contrary. *Jourdan* v. *Burstow*, 76 N. J. Eq. 55, 74 Atl. 124, aff'd, 78 N. J. Eq. 587, 81 Atl. 1133; *Haynes* v. *Rudd*, 102 N. Y. 372, 7 N. E. 287. Even under the latter rule, however, recovery will be denied only if it appears that a felony was actually committed, or a prosecution instituted. It might be urged that it is equally against public policy to permit suppression of the investigation of merely alleged crimes. On this view alone can the principal case be supported, unless it be that threats to prosecute a brother-in-law cannot constitute such duress as will justify a recovery. On this point the authorities differ. In some states an obligation may be avoided if incurred solely to relieve a son-in-law from prosecution. *Nebraska Mut. Bond Ass'n* v. *Klee*, 70 Neb. 383, 87 N. W. 476; *Fountain* v. *Bigham*, 235 Pa. St. 35, 84 Atl. 131. And if the benefit of the rule is to be extended beyond cases involving close blood relations, there seems to be no reason why it should not be applied in the principal case. The doctrine might be carried even further, and held to cover all cases where the obligor's freedom of will is coerced by threats of harm to another. See *Davies* v. *London Ins. Co.*, L. R. 8 Ch. Div. 469.

STATUTE OF FRAUDS — PART PERFORMANCE — WHAT ACTS ARE SUFFICIENT. — A purchaser orally agreed to buy land of a vendor to give to the purchaser's niece. In reliance on the gift, the niece entered into possession. The purchaser died before the sale's completion. *Held*, that the vendor may specifically enforce the contract against the purchaser's estate, for the benefit of the niece. *Hohler* v. *Aston*, [1920] 2 Ch. 420.

It is settled law that part performance of an oral contract to purchase land takes the case out of the operation of the Statute of Frauds. See FRY, SPECIFIC PERFORMANCE, 5 ed., § 578. By the prevailing rule it is sufficient part performance if the purchaser is put in possession under the contract. *Butcher* v. *Stapely*, 1 Vern. 363; *Earl of Aylesford's Case*, 2 Strange, 783. See BROWNE, STATUTE OF FRAUDS, 5 ed., § 467. Many American jurisdictions require something more. *Bradley* v. *Owsley*, 74 Tex. 69. See 5 POMEROY, EQUITY JURISPRUDENCE, 4 ed., § 2243. The prevailing rule was adopted at a time when the manifest hostility of the English Chancellors toward statutes was coupled with an exalted sense of their ethical responsibilities. It originally contemplated

the taking of possession by the purchaser as in substance a common-law conveyance by livery of seisin. See Roscoe Pound, "The Progress of the Law — Equity," 33 HARV. L. REV. 929, 941–943. To-day such possession is regarded as sufficient because it is solely referable to a contract concerning this land. Clearly the possession of the purchaser's agent is the possession of the purchaser. See *Wharton* v. *Stoutenburgh*, 35 N. J. Eq. 266. In the principal case, the possession of the contract beneficiary, taken at the instigation of the purchaser and with the assent of the vendor, must equally be regarded as the possession of the purchaser. However astray from "the right line of progress toward a satisfactory law upon this subject," which would require, beyond possession solely referable to the contract, irreparable injury to the purchaser if specific performance is denied, the decision clearly indicates the state of the prevailing authorities. See Roscoe Pound, "The Progress of the Law — Equity," *supra*, 944, 945; 15 HARV. L. REV. 659.

SURETYSHIP — SURETY'S RIGHT TO EXECUTION AT LAW UPON A JUDGMENT PROCURED BY THE CREDITOR AFTER PAYMENT BY THE SURETY. — A creditor obtained a judgment against the principal debtor and his surety. After payment by the surety, the judgment was assigned to him. Execution was levied upon this judgment against the property of the principal who now moves to quash the execution. *Held*, that the execution be quashed. *Grizzle* v. *Fletcher*, 105 S. E. 457 (Va.).

At law the payment of a joint obligation by one of the obligors extinguishes the obligation. *Booth* v. *Farmers & Mechanics' Nat. Bank*, 74 N. Y. 228. See 1 WILLISTON, CONTRACTS, § 332. And taking a narrow view, English courts of equity refused to allow a surety to be subrogated to the advantages of the creditor, such as bonds or judgments, which were legally destroyed by payment of the debt by the surety. *Copis* v. *Middleton*, 1 Turn. & R. 224; *Armitage* v. *Baldwin*, 5 Beav. 278. But this has been changed by statute in England. See MERCANTILE LAW AMEND. ACT, 19 & 20 VICT., c. 97, § 5. And to-day in most American jurisdictions equity keeps alive the original obligation so that a surety who has paid may be subrogated to a judgment rendered against himself, his principal, and his co-sureties. *Furnold* v. *Bank of the State of Missouri*, 44 Mo. 336. See 2 WILLISTON, CONTRACTS, § 1268. This often becomes important in establishing priority. *Hill* v. *King*, 48 Oh. St. 75, 26 N. E. 988. For a surety's right to reimbursement only arises upon his payment to the creditor. *Blanchard* v. *Blanchard*, 201 N. Y. 134, 94 N. E. 630. By statute many states allow execution at law upon such a judgment without requiring any decree of equity. *Kimmel* v. *Lowe*, 28 Minn. 265, 9 N. W. 764; *Garvin* v. *Garvin*, 27 S. C. 472, 4 S. E. 148; *Ezzard* v. *Bell*, 100 Ga. 150, 28 S. E. 28. And a few courts permit this without a statute if the suretyship relation was established in the former action and the judgment has been assigned to the surety. *Nelson* v. *Webster*, 72 Neb. 332, 100 N. W. 411; *Williams* v. *Riehl*, 127 Cal. 365, 59 Pac. 762. Since these factors were present in the principal case, the decision indicates a close adherence by the Virginia Court to the separation of legal and equitable relief.

TRUSTS — *CESTUI QUE TRUST'S* INTEREST IN *RES* — TRUST FOR EDUCATION AND MAINTENANCE. — The testator bequeathed his estate in trust to pay £13 a year to a named educational institution for the maintenance and education of his son, then aged four, and directed that if the son died before the estate was exhausted the balance should be applied in care of a certain grave. The expense of the son's education was borne by his mother, and at his majority the estate, which amounted to about £100, was still intact. *Held*, that the son is entitled to the money. *In the Will of O'Rourke*, [1920] V. L. R. 546.